

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

IRA SIDNEY STERN,

Petitioner,

v.

CASE NO. 2:05-cv-207
CRIM. NO. 2:02-cr-021;2:03-cr-056
JUDGE SMITH
MAGISTRATE JUDGE KING

UNITED STATES OF AMERICA,

Respondent.

OPINION AND ORDER

On November 3, 2005, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. §2255 be dismissed as barred by the statute's one-year limitations period. Petitioner has filed objections to the *Report and Recommendation*, again arguing that his §2255 petition is timely because he never received notice of the dismissal of his appeal, which was withdrawn at his request. Petitioner also argues that, although notice was sent to his attorney of record, petitioner was not represented by counsel at that time. *See Objections*.

Pursuant to 28 U.S.C. 636(b)(1), this Court has conducted a *de novo* review of those portions of the *Report and Recommendation* objected to by petitioner. For the reasons discussed in the Magistrate Judge's *Report and Recommendation*, petitioner's objections are **OVERRULED**.

The *Report and Recommendation* is hereby **ADOPTED AND AFFIRMED**. This case is **DISMISSED**.

IT IS SO ORDERED.

s/George C. Smith
George C. Smith, Judge
United States District Court